

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
HONEYWELL INTERNATIONAL INC.
Permit No. VA0005291**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a), (8d) and (11), between the State Water Control Board and Honeywell International Incorporated, for the purpose of resolving certain alleged violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.

6. “Honeywell” means Honeywell International Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means the Honeywell International Inc. /Hopewell Performance Polymer Plant located at 905 East Randolph Road in Hopewell, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Permit” means VPDES permit No. VA0005291, which became effective July 18, 2002, and expires July 17, 2007.
10. “O&M” means operations and maintenance.
11. “CSO” means Consent Special Order.
12. “NOV” means Notice of Violation.

SECTION C: Findings of Fact and Conclusions of Law

1. Honeywell owns and operates a chemical manufacturing facility in Hopewell, Virginia. The Facility is the subject of VPDES permit VA0005291, which allows Honeywell to discharge treated wastewater into Gravelly and Poythress Runs in strict compliance with terms, limitations and requirements outlined in the Permit.
2. On May 6, 2003, Honeywell reported a release of hydroxylamine sulfate in Area 9C that entered Gravelly Run through Outfall 002. Based on Honeywell’s report and an on-site investigation by Department staff on May 6, 2003, the Department believes that the release caused a pH excursion for 30 minutes, which led to a fishkill.
3. On June 5, 2003, the Department issued an NOV to Honeywell citing the unauthorized May 6th discharge. For the purposes of this Order, the Department alleges that the May 6th discharge constitutes a violation of the Board’s general water quality standards.
4. The Department met with Honeywell on July 16, 2003 to discuss the causes and corrective actions for the hydroxylamine sulfate discharge. Honeywell stated that there was an unknown cross-connection between the clear water sewer system and the process sewer system. During the spill event it appeared to Honeywell that the containment system was working. The sump system shut down flow to the regional sewer system and began filling the containment area. Honeywell staff was managing the spill in the containment area when a low pH alarm went off at outfall 002. During subsequent investigation of the incident by Honeywell, the cross-connection was discovered.
5. During the July 16 meeting, Honeywell stated that the crossover line was permanently severed and capped on May 9, 2003. In addition, Honeywell investigated the reason why the cross-connection was not identified on the plant’s

master drawings and confirmed their current engineering practices would prevent a similar occurrence. On May 28, 2003, Honeywell completed a field verification test on the containment area in Area 9C to confirm there were no additional cross-connections in that area.

6. On October 22, 2003, Honeywell completed containment system verification testing in Area 9 A&B, the Sulfuric Acid Plant Diversion, and Area 6 Railcar Facility. The tests confirmed that the containment systems are functioning properly.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a),(8d) and (11), orders Honeywell, and Honeywell voluntarily agrees to perform the actions described in Appendix A of this Order and Honeywell voluntarily agrees to pay a civil charge of \$30,000 in settlement of the violations cited in this Order:

1. \$30,000 of this civil charge shall be paid within sixty (60) days of the effective date of this Order. Payment must indicate that the civil charge is pursuant to the Honeywell Consent Order and must include the Federal Identification Number. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of the Commonwealth of Virginia, Department of Environmental Quality" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The check, certified check, money order, or cashier's check shall include Honeywell's Federal Identification Number and a notation that it is for payment of a civil charge pursuant to the Order.

2. Submit a payment of \$1,323 within 60 days of the effective date of the Order to reimburse DEQ for its costs incurred during the course of the fish kill investigation. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for Honeywell. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

3. Submit a payment of \$15,854 within 60 days of the effective date of the Order to reimburse the Virginia Department of Game and Inland Fisheries for fish replacement costs. The payment shall note that it is being made pursuant to this

order and shall note the Federal Identification Number for Honeywell. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Honeywell, for good cause shown by Honeywell, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Honeywell by DEQ on June 5, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Honeywell admits the jurisdictional allegations, but does not admit the factual findings, and conclusions of law contained herein.
4. Honeywell consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Honeywell declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein, except that Honeywell reserves its rights to a hearing or other administrative proceeding authorized or required by law or to judicial review of any issue of fact or law contained in any subsequent amendments to this Order issued by the Board without the consent of Honeywell. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Honeywell to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing

herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Honeywell shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Honeywell shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Honeywell shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the Honeywell intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Honeywell. Notwithstanding the foregoing, Honeywell agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Honeywell petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Honeywell.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Honeywell from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Honeywell voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

Honeywell voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2004, by _____, who is
(name)

_____ of Honeywell, on behalf of the Corporation.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

Honeywell shall:

1. Conduct containment system verification testing in the North Pipe Bridge Containment, Area 8 Diversion, Area 6 Low Flow Diversion, and Area 9 D & E Containment. Testing should be completed within two months of each project's completion as specified in the Department approved 1999 conceptual engineering report for spill containment facilities. Should any of the containment tests fail, immediately implement corrective action to ensure that the systems operate as designed.

Pursuant to this Order communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

Honeywell shall confirm, in writing, completion of the Order requirements described in Section D and Appendix item 1 to the above address **within thirty (30) days of completion**.